



---

# **Committee on Utilities & Telecommunications**

**Thursday, March 30, 2006**

**9:45 am – 12:30 pm**

**404 HOB**

## **ACTION PACKET**

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**

**3/30/2006 9:45:00AM**

**Location:** 404 HOB

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Kenneth Littlefield (Chair)	X		
Bob Allen			X
Thomas Anderson	X		
Bruce Antone	X		
Gustavo Barreiro	X		
Marti Coley	X		
Anitere Flores	X		
Denise Grimsley	X		
Bob Henriquez	X		
Randy Johnson			X
Stan Jordan	X		
Arthenia Joyner	X		
David Mealor	X		
Dave Murzin	X		
Curtis Richardson	X		
Yolly Roberson	X		
Shelley Vana	X		
<b>Totals:</b>	<b>15</b>	<b>0</b>	<b>2</b>

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

# COMMITTEE MEETING REPORT

## Utilities & Telecommunications Committee

3/30/2006 9:45:00AM

Location: 404 HOB

HB 1199 : Statewide Cable Television Franchises

☒ Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Bob Allen			X		
Thomas Anderson		X			
Bruce Antone		X			
Gustavo Barreiro	X				
Marti Coley	X				
Anitere Flores	X				
Denise Grimsley		X			
Bob Henriquez	X				
Randy Johnson			X		
Stan Jordan	X				
Arthenia Joyner	X				
David Meador	X				
Dave Murzin	X				
Curtis Richardson		X			
Yolly Roberson	X				
Shelley Vana	X				
Kenneth Littlefield (Chair)	X				
Total Yeas: 11      Total Nays: 4					

### HB 1199 Amendments

#### Amendment 1 - amend competition

☒ Adopted

#### Amendment 2 - amend customer service

☒ Adopted

#### Amendment 3 - amend OPPAGA

☒ Adopted

#### Amendment 4 - amend Dept. of State

☒ Adopted

#### Amendment 5 - amend Dept. of Ag. resolve complaints

☒ Adopted

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**  
**3/30/2006 9:45:00AM**

**Location:** 404 HOB

**Amendment 6** - amend Dept. of Ag.

☒ Adopted

**Appearances:**

HB 1199

Charles Dudley, General Counsel (Lobbyist) - Proponent

Fla. Cable Telecom. Assoc.

108 S. Monroe St. #200

Tallahassee Florida 32301

Phone: 850-681-0024

HB 1199

John Fons, Governmental Consultant (State Employee) - Proponent

Bell South

2460 Elfinwing Lane

Tallahassee Florida 32309

Phone: 850-933-2721

HB 1199

Bob McKee, Fiscal Policy Director (Lobbyist) - Opponent

Florida Associations of Counties

100 S. Monroe St.

Tallahassee Florida 32302

Phone: 850-922-4300

HB 1199

Jeff Koon, Palm Beach Commission - Opponent

F.A.C.

301 N. Olive

West Palm Beach Florida 33401

Phone: 561-355-2202

HB 1199

John W. Smith, Assistant Director (Lobbyist) - Opponent

Florida League of Cities

301 S. Bronough St.

Tallahassee Florida 32301

Phone: 850-222-9684

HB 1199

Stephen B. Paciask, Chief Economist - Proponent

The American Consumer Institute

13337 Glen Taylor Lane

Oak Hill VA 20171

Phone: 703-471-3954

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**

**3/30/2006 9:45:00AM**

**Location:** 404 HOB

HB 1199

Jack Marrano, County Commissioner - Opponent

Pasco County

Little Rd.

New Port Richey Florida 34654

Phone: 727-847-8100

HB 1199

Rivers Buford, Deputy Chief of Staff (Lobbyist) (State Employee) - Information Only

Department of State

500 S. Bronough St.

Tallahassee Florida 32399

Phone: 850-245-6509

HB 1199

Karen Walker, Attorney (State Employee) - Proponent

Holland & Knight, LLP

315 S. Calhoun St., Suite 600

Tallahassee Florida 32301

Phone: 850-224-7000

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>Y</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

1 Council/Committee hearing bill: Utilities &

2 Telecommunications Committee

3 Representative Flores offered the following:

4  
5 **Amendment**

6 Remove line(s) 461 and 462 and insert:  
7 franchise authority located in whole or in part within the  
8 service area  
9

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED    (Y)(N)  
ADOPTED AS AMENDED    (Y/N)  
ADOPTED W/O OBJECTION    (Y/N)  
FAILED TO ADOPT    (Y/N)  
WITHDRAWN    (Y/N)  
OTHER       

Council/Committee hearing bill: Utilities & Telecommunications  
Committee

Representative Vana offered the following:

**Amendment**

Remove line(s) 486-491 and insert:

610.108 Customer service standards.--

(1) An incumbent cable service provider shall comply with  
customer service requirements reasonably comparable to the  
standards in 47 C.F.R. s. 76.309(c) until there are two or more  
providers offering service, excluding direct-to-home satellite  
service, in the relevant service area.

(2) Beginning not later than July 1, 2009, for all  
providers of cable service in municipalities and counties that,  
as of January 1, 2006, have an office or department dedicated to  
responding to cable service quality complaints, all such  
complaints shall be handled by the Department of Agriculture  
and Consumer Services. Until that time, cable service quality  
complaints shall continue to be handled by the municipality or  
county. This provision shall not be construed to permit the

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

21 municipality or county to impose customer service standards in  
22 conflict with this section.

23 (3) The Department of Agriculture and Consumer

000000



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (3)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>1</u> (Y) N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

1 Council/Committee hearing bill: Utilities & Telecommunications  
2 Committee

3 Representative offered the following:

**Amendment (with directory and title amendments)**

6 Remove lines 691-696, and insert:

7 610.116 Reports to the Legislature.--The Office of Program  
8 Policy Analysis and Governmental Accountability shall submit to  
9 the President of the Senate, the Speaker of the House of  
10 Representatives, and the majority and minority leaders of the  
11 Senate and House of Representatives, on December 1, 2009, a  
12 report on the status of competition in the cable service  
13 industry, including, by each municipality and county, the number  
14 of cable service providers, the number of cable subscribers  
15 served, the number of areas served by fewer than two cable  
16 service providers, the trend in cable prices, and the  
17 identification of any patterns of service as they impact  
18 demographic and income groups.

19 610.117 Severability.--If any provision of ss. 610.102-  
20 610.116 or the application thereof to any person or circumstance  
21 is held invalid, such invalidity shall not affect other

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (3)

provisions or application of ss. 610.102-610.116 that can be  
given effect without the invalid provision or application, and  
to this end the provisions of ss. 610.102-610.116 are severable.

===== D I R E C T O R Y A M E N D M E N T =====

Remove line 282, and insert

610.114, 610.115, 610.116, and 610.117, Florida Statutes, are  
created to

===== T I T L E A M E N D M E N T =====

Remove line(s) 14-45 and insert:

610.110, 610.112, 610.113, 610.114, 610.115, 610.116, and  
610.117, F.S.; designating the Department of State as the  
authorizing authority; providing definitions; requiring state  
authorization to provide cable services; providing duties and  
responsibilities of the Department of State; providing  
application procedures and requirements; providing for issuing  
certificates of franchise authority; providing eligibility  
requirements and criteria for a certificate; prohibiting the  
department from imposing taxes, fees, or charges on a cable  
service provider to issue a certificate; prohibiting imposing  
buildout requirements on a certificateholder; imposing certain  
customer service requirements on cable service providers;  
requiring the Department of Agriculture and Consumer Services to  
receive customer service complaints; requiring provision of  
public, educational, and governmental access channels or  
capacity equivalent; providing criteria, requirements, and  
procedures; providing exceptions; providing responsibilities of  
municipalities and counties relating to such channels; providing

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (3)

52 for enforcement; providing requirements for and limitations on  
53 counties and municipalities relating to access to public right-  
54 of-way; prohibiting counties and municipalities from imposing  
55 additional requirements on certificateholders; authorizing  
56 counties and municipalities to require permits of  
57 certificateholders relating to public right-of-way; providing  
58 permit criteria and requirements; prohibiting discrimination  
59 between cable service subscribers; providing for enforcement;  
60 providing for determinations of violations; providing for  
61 enforcement of compliance by certificateholders; providing for  
62 applicability of other laws; requiring the Office of Program  
63 Policy Analysis and Government Accountability to report to the  
64 Legislature on the status of competition in the cable service  
65 industry; providing report requirements; providing severability;  
66 repealing s. 166.046, F.S.,

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (4)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED        (Y)(N)  
ADOPTED AS AMENDED        (Y/N)  
ADOPTED W/O OBJECTION        (Y/N)  
FAILED TO ADOPT        (Y/N)  
WITHDRAWN        (Y/N)  
OTHER           

Council/Committee hearing bill: Utilities &  
Telecommunications Committee  
Representative offered the following:

**Amendment (with title amendment)**

Between lines 436 and 437, insert:

(11) The department shall adopt procedural rules pursuant  
to ss. 120.536(1) and 120.54 as may be necessary to implement  
this section.

(12) The department may establish a standard application  
form, in which case the application shall be on such form and  
must be accompanied by a fee, not to exceed \$150, to be  
established by the department.

===== T I T L E A M E N D M E N T =====

Remove line(s) 22 and insert:  
certificate; authorizing the department to adopt rules;  
providing for an application form and fee; prohibiting the  
department from imposing

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (5)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>✓</u> (Y/N)
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

1 Council/Committee hearing bill: Utilities & Telecommunications  
2 Committee

3 Representative offered the following:

5 **Amendment**

6 Remove line 493 and insert:  
7 of a certificateholder. The department shall address such  
8 complaints in an expeditious manner by assisting the resolution  
9 of such complaint between the complainant and the  
10 certificateholder. The department shall adopt procedural rules  
11 pursuant to ss. 120.536(1) and 120.54 necessary to implement  
12 this section.

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (6)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED	<u>✓</u> (Y) N
ADOPTED AS AMENDED	— (Y/N)
ADOPTED W/O OBJECTION	— (Y/N)
FAILED TO ADOPT	— (Y/N)
WITHDRAWN	— (Y/N)
OTHER	—

Council/Committee hearing bill: Utilities & Telecommunications  
Committee

Representative offered the following:

**Amendment**

Between lines 680 and 681, insert:

(5) The department shall adopt procedural rules pursuant  
to ss. 120.536(1) and 120.54 necessary to implement this  
section.

000000

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**

**3/30/2006 9:45:00AM**

**Location:** 404 HOB

**HB 1339 : Communications Services Tax**

☒ *Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Bob Allen			X		
Thomas Anderson	X				
Bruce Antone	X				
Gustavo Barreiro	X				
Marti Coley	X				
Anitere Flores	X				
Denise Grimsley	X				
Bob Henriquez	X				
Randy Johnson			X		
Stan Jordan	X				
Arthenia Joyner	X				
David Mealor	X				
Dave Murzin	X				
Curtis Richardson	X				
Yolly Roberson	X				
Shelley Vana	X				
Kenneth Littlefield (Chair)	X				
<b>Total Yeas: 15      Total Nays: 0</b>					

**HB 1339 Amendments**

**Amendment 1** - Amend rate

☒ Adopted

**Appearances:**

HB 1339

John W. Smith, Assistant Director (Lobbyist) - Information Only

Florida League of Cities

301 S. Bronough St.

Tallahassee Florida 32301

Phone: 850-222-9684

HB 1339

Frank Meiners, Consultant (Lobbyist) - Proponent

Cingular Wireless

PO Box 1633

Tallahassee Florida 32302

Phone: 850-591-0177

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**

**3/30/2006 9:45:00AM**

**Location:** 404 HOB

HB 1339

Charles Dudley, General Counsel (Lobbyist) - Proponent

Fla. Cable Telecom. Assoc.

108 S. Monroe St. #200

Tallahassee Florida 32301

Phone: 850-681-0024

HB 1339

Missy Timmins (Lobbyist) - Proponent

Verizon Wireless

112 E. Jefferson Suite 200

Tallahassee Florida 32309

Phone: 850-264-3225

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 1339

COUNCIL/COMMITTEE ACTION

ADOPTED    (Y/N)  
ADOPTED AS AMENDED    (Y/N)  
ADOPTED W/O OBJECTION    (Y/N)  
FAILED TO ADOPT    (Y/N)  
WITHDRAWN    (Y/N)  
OTHER           

Council/Committee hearing bill: Utilities & Telecommunications  
Committee

Representative(s) Berfield offered the following:

**Amendment (with directory and title amendments)**

Remove line(s) 71 through 89 and insert:

(e) The rate imposed in paragraphs (a), (c), and (d) shall  
be as follows:

1. For bills dated on or after October 1, 2001, through  
December 31, 2006, 6.8 percent;

2. For bills dated on or after January 1, 2007, through  
December 31, 2007, 5.63 percent;

3. For bills dated on or after January 1, 2008, through  
December 31, 2008, 4.63 percent; and

4. For bills dated on or after January 1, 2009, 3.63  
percent.

(f) The rate imposed in paragraph (b) shall be as follows:

1. For bills dated on or after October 1, 2001, through  
December 31, 2006, 10.8 percent;

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

21        2. For bills dated on or after January 1, 2007, through  
22 December 31, 2007, 9.63 percent;

23        3. For bills dated on or after January 1, 2008, through  
24 December 31, 2008, 8.63 percent; and

25        4. For bills dated on or after January 1, 2009, 7.63  
26 percent.  
27

000000

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**

**3/30/2006 9:45:00AM**

**Location:** 404 HOB

**HB 1471 : Florida Energy Diversity and Efficiency Act**

☒ *Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Bob Allen			X		
Thomas Anderson	X				
Bruce Antone	X				
Gustavo Barreiro	X				
Marti Coley	X				
Anitere Flores	X				
Denise Grimsley	X				
Bob Henriquez	X				
Randy Johnson			X		
Stan Jordan	X				
Arthenia Joyner	X				
David Mealor			X		
Dave Murzin	X				
Curtis Richardson	X				
Yolly Roberson	X				
Shelley Vana		X			
Kenneth Littlefield (Chair)	X				
<b>Total Yeas: 13      Total Nays: 1</b>					

**HB 1471 Amendments**

**Amendment 1 - Strike-All**

☒ Adopted

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 1471

COUNCIL/COMMITTEE ACTION

ADOPTED ☒ (Y/N)  
ADOPTED AS AMENDED ☐ (Y/N)  
ADOPTED W/O OBJECTION ☐ (Y/N)  
FAILED TO ADOPT ☐ (Y/N)  
WITHDRAWN ☐ (Y/N)  
OTHER ☐

Council/Committee hearing bill: Utilities & Telecommunications  
Committee

Representative(s) Attkisson offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Short title.--This act may be cited as the  
"Florida Energy Diversity and Efficiency Act."

Section 2. Purpose.--The Legislature finds that the state,  
its residents, and its economy benefit from diverse sources of  
fuel for the generation of electricity. Diversity of fuel  
sources contributes to lower cost electricity and improved  
reliability of electric supply, as the state will not be  
dependent upon a particular source of fuel. Nuclear power plants  
are important sources of electric generation that contribute to  
the diversity of fuel sources within the state. The state has  
five operating nuclear power plants that have operated reliably  
for the benefit of the state, and contributed a stable supply of  
electricity, with minimal impacts on the state's environment.  
The citizens of the state and electric power consumers have  
benefited from the operation of existing nuclear power plants

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

23 within the state through low-cost and reliable energy  
24 production, electric grid reliability, and economic and  
25 environmental benefits. The Legislature further finds and  
26 declares it is in the public interest and critical to the  
27 health, prosperity, and general welfare of the state and its  
28 citizens to promote the expansion of nuclear generation by the  
29 siting of new nuclear power plants within the state so as to  
30 continue these benefits and further ensure the state's access to  
31 safe, reliable, efficient, and affordable electric service,  
32 thereby enhancing the state's economic future while protecting  
33 the environment. Recent events have shown the state's  
34 vulnerability to disruptions and price volatility in its  
35 electric supplies from the importation of natural gas and fuel  
36 oil from domestic and foreign sources. The federal Energy Policy  
37 Act of 2005 contains important provisions to promote the  
38 construction and operation of new nuclear power plants in the  
39 United States, including financial incentives for qualifying  
40 advanced nuclear power plants and incentives that are limited to  
41 the first 6,000 megawatts of advanced nuclear power plant  
42 generating capacity licensed in the United States. The state  
43 would benefit from timely siting of a qualifying advanced  
44 nuclear power plant as a source of low-cost electricity. In  
45 consideration of the present and predicted growth in electric  
46 power needs in this state, and the potential for additional  
47 reliable sources of electricity from nuclear power plants, the  
48 Legislature finds that there is a need to develop a procedure  
49 for the selection and utilization of sites for electrical  
50 generating facilities utilizing nuclear energy and for the  
51 identification of a state position with respect to each proposed  
52 site and nuclear power plant. The Legislature recognizes that  
53 the selection of sites for new or expanded nuclear-powered

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

54 electrical generating plants, including any associated linear  
55 facilities, will have a significant impact upon the welfare of  
56 the population, the location and growth of industry, and the use  
57 of the natural resources of the state. The Legislature finds  
58 that the efficiency of the permit application and review process  
59 at both the state and local level would be improved with the  
60 implementation of a process in which a permit application for  
61 nuclear power plants would be centrally coordinated and all  
62 permit decisions could be reviewed on the basis of adopted  
63 standards and recommendations of the deciding agencies. A  
64 centrally coordinated permitting process would also enhance the  
65 state's ability to become the location of a qualifying advanced  
66 nuclear power plant. Nuclear power plants may also be the  
67 location of or otherwise promote other public benefits for water  
68 supply projects, industrial development, or other activities.  
69 Legislation that addresses issues unique to the siting of  
70 nuclear power plants is required to encourage electric utilities  
71 to site and operate new nuclear power plant facilities within  
72 the state and to take advantage of provisions of the federal  
73 Energy Policy Act of 2005 that operate to reduce the overall  
74 costs of such plants. The state shall promote and approve new  
75 nuclear-powered electrical generating facilities that will  
76 reasonably balance the increasing demands for reliable, cost  
77 effective electric power and decisions about electrical power  
78 plant location, construction, and operation with the broad  
79 interests of the public.

80 Section 3. Definitions.--As used in this act:

81 (1) "Act" means the Florida Energy Diversity and  
82 Efficiency Act.

83 (2) "Agency," as the context requires, means an official,  
84 officer, commission, authority, council, committee, department,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

85 division, bureau, board, section, or other unit or entity of  
86 government, including a regional or local governmental entity.

87 (3) "Amendment" means a change in the information provided  
88 by the applicant to the application for certification made after  
89 the initial application filing.

90 (4) "Applicant" means any electric utility as defined  
91 under s. 366.8255(1)(a), Florida Statutes, city, town, county,  
92 public utility district, electric cooperative, or joint  
93 operating agency, or combination thereof, authorized under  
94 Florida law to engage in the business of generating,  
95 transmitting, or distributing electric energy to retail electric  
96 customers in the state.

97 (5) "Application" means the documents required by the  
98 department to be filed to initiate a certification proceeding  
99 and shall include the documents necessary for the department to  
100 render a decision on any permit required pursuant to any  
101 federally delegated or approved permit program.

102 (6) "Associated facility" means any facility that directly  
103 supports the construction and operation of the nuclear power  
104 plant, including, but not limited to, any substation,  
105 transmission line that connects the electrical power plant to an  
106 electrical transmission network, and right-of-way to which the  
107 applicant intends to connect.

108 (7) "Associated transmission line" means any new or  
109 upgraded transmission line that is owned by the applicant and  
110 connects the electrical power plant to a electrical transmission  
111 network or right-of-way to which the applicant intends to  
112 connect, including, at the applicant's option, any proposed  
113 terminal or intermediate substation, substation expansion  
114 connected to the associated transmission line to be certified,  
115 or new transmission line or upgrade or improvement of an

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

existing transmission line that is owned by the applicant on any  
portion of the state's electrical transmission system necessary  
to support the generation injected into the system from the  
proposed nuclear power plant.

(8) "Board" means the Governor and Cabinet sitting as the  
Nuclear Power Plant Siting Board.

(9) "Certification" means the written order of the board  
approving an application in whole or with such changes or  
conditions as the board may deem appropriate.

(10) "Completeness" means that the application has  
addressed all applicable sections of the prescribed application  
format and that those sections are sufficient in  
comprehensiveness of data or in quality of information provided  
to allow the department to determine whether the application  
provides the reviewing agencies adequate information to prepare  
the reports required by this act.

(11) "Corridor" means the proposed area within which an  
associated linear facility right-of-way is to be located. The  
width of the corridor proposed for certification as an  
associated facility, at the option of the applicant, may be the  
width of the right-of-way or a wider boundary, not to exceed a  
width of 1 mile, within which the right-of-way will be located.  
The area within the corridor in which a right-of-way may be  
located may be further restricted by a condition of  
certification. After all property interests required for the  
right-of-way have been acquired by the applicant, the boundaries  
of the area certified shall narrow to only that land within the  
boundaries of the right-of-way.

(12) "Department" means the Department of Environmental  
Protection.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

146       (13) "Designated administrative law judge" means the  
147       administrative law judge assigned by the Division of  
148       Administrative Hearings pursuant to chapter 120, Florida  
149       Statutes, to conduct the hearings required by this act.

150       (14) "Federally delegated or approved permit program"  
151       means any environmental regulatory program approved by an agency  
152       of the Federal Government so as to authorize the department to  
153       administer and issue licenses pursuant to federal law,  
154       including, but not limited to, new source review permits,  
155       operation permits for major sources of air pollution, and  
156       prevention of significant deterioration permits under the Clean  
157       Air Act (42 U.S.C. ss. 7401 et seq.), permits under ss. 402 and  
158       404 of the Clean Water Act (33 U.S.C. ss. 1251 et seq.), and  
159       permits under the Resource Conservation and Recovery Act (42  
160       U.S.C. ss. 6901 et seq.).

161       (15) "License" means a franchise, permit, certification,  
162       registration, charter, comprehensive plan amendment, development  
163       order, or permit as defined in chapters 163 and 380, Florida  
164       Statutes, or similar form of authorization required by law,  
165       including permits issued under federally delegated or approved  
166       permit programs, but it does not include a license required  
167       primarily for revenue purposes when issuance of the license is a  
168       ministerial act.

169       (16) "Local government" means a municipality or county in  
170       the jurisdiction of which the nuclear power generating facility  
171       is proposed to be located, unless the term is expressly stated  
172       to also include the local governments in the jurisdiction of  
173       which associated facilities or associated transmission lines are  
174       located.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

(17) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(18) "Nonprocedural requirements of agencies" means any agency's regulatory requirements established by statute, rule, ordinance, or comprehensive plan, excluding any provisions prescribing forms, fees, procedures, or time limits for the review or processing of information submitted to demonstrate compliance with such regulatory requirements.

(19) "Notice of intent" means that notice which is filed with the department on behalf of an applicant prior to submission of an application pursuant to this act and which notifies the department of an intent to file an application.

(20) "Nuclear power generating facility" means the nuclear-fueled electrical generating facility within a nuclear power plant but, for purposes of this act, excludes any associated facility or associated transmission line.

(21) "Nuclear power plant" means, for the purpose of certification, any electrical generating facility using any process involving nuclear materials, fuels, or processes and, at the applicant's election, includes associated facilities and associated transmission lines.

(22) "Preliminary statement of issues" means a listing and explanation of those issues within the agency's jurisdiction which are of major concern to the agency in relation to the proposed nuclear power plant.

(23) "Public Service Commission" or "commission" means the agency created pursuant to chapter 350, Florida Statutes.

(24) "Regional planning council" means a regional planning council as defined in s. 186.503(4), Florida Statutes, in the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

jurisdiction of which the nuclear power generating facility is proposed to be located.

(25) "Right-of-way" means land necessary for the construction and maintenance of an associated linear facility, such as a railroad line, pipeline, or transmission line, including associated facilities and associated transmission lines. The typical width of the right-of-way shall be identified in the application. The right-of-way shall be located within the certified corridor and shall be identified by the applicant subsequent to certification in documents filed with the department prior to construction.

(26) "Site" means any proposed location wherein a nuclear power generating facility, or a nuclear power generating facility alteration or addition resulting in an increase in generating capacity, will be located within state jurisdiction. The site may include appropriate buffers and may accommodate facilities constructed by the applicant or an agency to further an objective of an adopted water management district water supply plan. For purposes of this act, the term "site" does not include any associated facilities or associated transmission lines.

(27) "Site certification" means the final order issued by the board approving with any conditions or modifications a proposed nuclear power plant.

(28) "State comprehensive plan" means that plan set forth in chapter 187, Florida Statutes.

(29) "Water management district" means a water management district, created pursuant to chapter 373, Florida Statutes, in the jurisdiction of which the nuclear power plant is proposed to be located.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Section 4. Department of Environmental Protection; powers and duties enumerated.--The department shall have the following powers and duties in relation to this act:

(1) To adopt rules within six months of the effective date of this act pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to implement the provisions of this act.

(2) To prescribe the form and content of the public notices and the notice of intent and the form, content, and necessary supporting documentation and studies to be prepared by the applicant for nuclear power plant site certification applications. The department shall utilize any existing site certification application forms and instructions adopted pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518, Florida Statutes, until such new forms are adopted by the department.

(3) To receive applications for nuclear power plant site certifications and to determine the completeness thereof.

(4) To make, or contract for, studies of nuclear power plant site certification applications.

(5) To administer the processing of applications for nuclear power plant site certifications and to ensure that the applications are processed as expeditiously as possible.

(6) To require such fees as allowed by this act.

(7) To conduct studies and prepare a written analysis.

(8) To prescribe the means for monitoring continued compliance with terms of the certification.

(9) To notify all affected agencies of the filing of a notice of intent within 15 days after receipt of the notice.

(10) To issue, with the nuclear power plant certification, any license required pursuant to any federally delegated or approved permit program.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Section 5. Applicability and certification.--

(1) The provisions of this act shall apply exclusively to any nuclear power plant as defined in this act and to any expansion in steam-generating capacity of any existing nuclear power plant. No construction of any new nuclear power plant or expansion in steam-generating capacity of any existing nuclear power plant may be undertaken after the effective date of this act without first obtaining certification as provided in this act. Except as otherwise provided in this subsection, this act shall not apply to any such nuclear power plant that is presently operating or that has, upon the effective date of this act, applied for a permit or certification under requirements in force prior to the effective date of such act.

(2) Except as provided in the certification, modification of nuclear fuels, internal-related hardware, or operating conditions not in conflict with certification, which increase the electrical output of a unit to no greater capacity than the maximum operating capacity of the existing electrical generator, shall not constitute an alteration or addition to generating capacity which requires certification pursuant to this act.

(3) The application for any related department license which is required pursuant to any federally delegated or approved permit program shall be processed within the time periods allowed by this act, in lieu of those specified in s. 120.60, Florida Statutes.

Section 6. Distribution of application; schedules.--

(1) Within 7 days after the filing of an application, the department shall provide to the applicant and the Division of Administrative Hearings the names and addresses of those affected or other agencies entitled to notice and copies of the application and any amendments.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

297       (2) Within 7 days after the filing of an application, the  
298 department shall prepare a schedule of dates for submission of  
299 statements of issues, determination of completeness, and  
300 submittal of final reports from affected and other agencies,  
301 petition for a certification hearing, and other significant  
302 dates to be followed during the certification process, including  
303 dates for filing notices of appearance to be a party pursuant to  
304 section 12(3)(c). The schedule shall establish the date for  
305 conduct of any certification hearing as provided for in this  
306 act. This schedule shall be timely provided by the department to  
307 the applicant, the administrative law judge, all agencies  
308 identified pursuant to subsection (1), and all parties.

309       (3) Within 7 days after the department issues the names  
310 and addresses of those affected or other agencies entitled to  
311 notice and copies of the application and any amendments, the  
312 applicant shall distribute copies of the application to all  
313 agencies identified by the department. Copies of changes and  
314 amendments to the application shall be timely distributed by the  
315 applicant to all affected agencies and parties.

316       Section 7. Appointment of administrative law judge.--  
317 Within 7 days after receipt of an application, the department  
318 shall request the Division of Administrative Hearings to  
319 designate an administrative law judge to conduct the hearings  
320 required by this act. The division director shall designate an  
321 administrative law judge within 7 days after receipt of the  
322 request from the department.

323       Section 8. Determination of completeness.--

324       (1) Within 45 days after the distribution of the  
325 application or amendment to a pending application, the  
326 department shall file a statement with the Division of  
327 Administrative Hearings and with the applicant declaring its

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

position with regard to the completeness of the application or amendment. The department's statement shall be based upon consultation with the affected agencies, which shall submit to the department recommendations on the completeness of the application within 30 days after distribution of the application.

(2) If the department declares the application or amendment incomplete, the applicant may withdraw the application or amendment. If the applicant declines to withdraw the application or amendment, the applicant may, at its option:

(a) Within 40 days after the department filed its statement of incompleteness or such later date as authorized by department rules, file additional information necessary to make the application or amendment complete. If the applicant makes its application or amendment complete within this time period, the time schedules under this act shall not be tolled by the department's statement of incompleteness.

(b) Advise the department and the administrative law judge that the information necessary to make the application or amendment complete cannot be supplied within the time period authorized in paragraph (a). The time schedules under this act shall be tolled from the date of the notice of incompleteness until the application or amendment is determined complete.

(c) Contest the statement of incompleteness by filing a request for a hearing with the administrative law judge within 15 days after the filing of the statement of incompleteness. If a hearing is requested by the applicant, all time schedules under this act shall be tolled as of the department's statement of incompleteness, pending the administrative law judge's decision concerning the dispute. A hearing shall be held no later than 21 days after the filing of the statement by the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

department, and a final decision shall be rendered by the administrative law judge within 10 days after the hearing.

(3)(a) If the administrative law judge determines, contrary to the department, that an application or amendment is complete, all time schedules under this act shall resume as of the date of the administrative law judge's determination.

(b) If the administrative law judge agrees that the application is incomplete, all time schedules under this act shall remain tolled until the applicant files additional information and the application or amendment is determined complete by the department or the administrative law judge.

(4) If, within 30 days after receipt of the additional information submitted pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (3)(b), based upon the recommendations of the affected agencies, the department determines that the additional information supplied by an applicant does not render the application or amendment complete, the applicant may exercise any of the options specified in subsection (2) as often as may be necessary to resolve the dispute.

Section 9. Land use and zoning consistency.--

(1) The applicant shall include in the application a statement on the consistency of the site or any directly associated facilities with existing land use plans and zoning ordinances which were in effect on the date the application was filed, and a full description of such consistency.

(2) Within 80 days of the filing of the application, each local government shall file a determination with the Department, the applicant, the administrative law judge, and all parties on the consistency of the site or any directly associated facilities with existing land use plans and zoning ordinances which were in effect on the date the application was filed,



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

390 based on the information provided in the application. The  
391 applicant shall publish notice of the consistency determination  
392 in accordance with the requirements of section 17(1)(b).

393 (3) If any substantially affected person wishes to dispute  
394 the local government's determination, he or she shall file a  
395 petition with the department within 15 days of the publication  
396 of notice of the local government's determination. If a hearing  
397 is requested, the provisions of s. 403.508(1) shall apply.

398 (4) The dates in this section may be altered upon  
399 agreement between the applicant, the local government, and the  
400 department pursuant to s. 403.5095.

401 (5) If it is determined by the local government that the  
402 proposed site or directly associated facility does conform with  
403 existing land use plans and zoning ordinances in effect as of  
404 the date of the application and no petition has been filed, the  
405 responsible zoning or planning authority shall not thereafter  
406 change such land use plans or zoning ordinances so as to  
407 foreclose construction and operation of the proposed site or  
408 directly associated facilities unless certification is  
409 subsequently denied or withdrawn.

410 Section 10. Preliminary statements of issues, reports, and  
411 studies.—

412 (1) Each affected agency identified in paragraph (2)(a)  
413 shall submit a preliminary statement of issues to the department  
414 and the applicant no later than 45 days after the distribution  
415 of the application. The failure to raise an issue in this  
416 statement shall not preclude the issue from being raised in the  
417 agency's report.

418 (2)(a) The following agencies shall prepare reports as  
419 provided below and shall submit them to the department and the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

applicant within 60 days after the application is determined complete:

1. The Department of Community Affairs shall prepare a report containing recommendations which address the impact upon the public of the proposed nuclear power plant, based on the degree to which the nuclear power plant is consistent with the applicable portions of the state comprehensive plan and other such matters within its jurisdiction.

2. The Public Service Commission shall prepare a report as to the present and future need for the electrical generating capacity to be supplied by the proposed nuclear power plant. The report shall include the commission's determination pursuant to section 25(4) and may include the commission's comments with respect to any other matters within its jurisdiction.

3. The water management district shall prepare a report as to matters within its regulatory jurisdiction.

4. Each local government in whose jurisdiction the proposed nuclear power plant, including associated facilities and associated transmission lines, is to be located shall prepare a report as to the consistency of the proposed nuclear power plant with all applicable local ordinances, regulations, standards, or criteria that apply to the proposed nuclear power plant, including adopted local comprehensive plans, land development regulations, and any applicable local environmental regulations adopted pursuant to s. 403.182, Florida Statutes, or by other means. Each local government in which the nuclear power generating facility is to be located shall also report on whether the proposed site for a nuclear power generating facility is located in a future land use category and a zoning district, as adopted by the local government and which were in effect on the date upon which the application was filed, which

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

451 permits the location of a nuclear power generating facility. If  
452 the proposed site for a nuclear power generating facility is not  
453 located in a future land use category or zoning district which  
454 allows such a use, then the local government shall identify the  
455 future land use category or zoning district which would be  
456 required to allow the proposed nuclear power generating facility  
457 on the proposed site. If the proposed site for a nuclear power  
458 generating facility is not located in a future land use category  
459 or zoning district which allows such a use, the local government  
460 shall identify in its report any reasonable and available  
461 methods which the local government believes are necessary to  
462 make the proposed use of the site for a nuclear power generating  
463 facility consistent with the local comprehensive plan future  
464 land use category, in compliance with the local zoning code or  
465 compatible with the existing land uses surrounding the proposed  
466 nuclear power generating facility site.

467 5. The Fish and Wildlife Conservation Commission shall  
468 prepare a report as to matters within its jurisdiction.

469 6. The regional planning council shall prepare a report  
470 containing recommendations that address the impact upon the  
471 public of the proposed nuclear power plant, as identified under  
472 the applicable provisions of the strategic regional policy plan  
473 adopted pursuant to chapter 186, Florida Statutes.

474 7. The Department of Health shall prepare a report as to  
475 matters within its jurisdiction.

476 8. The Department of Transportation shall prepare a report  
477 as to the impact of the proposed nuclear power plant and  
478 associated linear facilities on roads, railroads, airports,  
479 aeronautics, seaports, and other matters within its  
480 jurisdiction.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

481       9. Any other agency, if requested by the department and  
482 upon approval of the assigned administrative law judge, shall  
483 also perform studies or prepare reports as to matters within  
484 that agency's jurisdiction which may be directly affected by the  
485 proposed nuclear power plant.

486       (b) Each report described in this subsection shall contain  
487 all information on variances, exemptions, exceptions, or other  
488 relief which may be required and any proposed conditions of  
489 certification on matters within the jurisdiction of such agency.  
490 For each condition proposed by an agency in its report, the  
491 agency shall list the specific statute, rule, or ordinance which  
492 authorizes the proposed condition. No condition of certification  
493 may be imposed upon a nuclear power plant project that is not  
494 directly required to ensure compliance with a specific statute,  
495 rule, or ordinance of an agency or the criteria set forth in  
496 this act.

497       (c) The agencies shall initiate the activities required by  
498 this section no later than 30 days after the complete  
499 application is distributed.

500       (3) The department shall prepare a written analysis, which  
501 shall be filed with the designated administrative law judge and  
502 served on all parties no later than 85 days after the  
503 application is found complete, but no later than 60 days prior  
504 to the scheduled date for the certification hearing if a  
505 petition for hearing were to be filed, and which shall include:

506       (a) A statement indicating whether the proposed nuclear  
507 power plant and proposed ultimate site capacity will be in  
508 compliance with the rules of the department and in compliance  
509 with a specific statute, rule, or ordinance of an agency  
510 identified in that agency's report.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

511 (b) Copies of the studies and reports required by this  
512 act.

513 (c) The comments received by the department from any other  
514 agency or person.

515 (d) The recommendation of the department as to the  
516 disposition of the application, of variances, exemptions,  
517 exceptions, or other relief identified by any party, and of any  
518 proposed conditions of certification which the department  
519 believes should be imposed, including any conditions proposed by  
520 an agency which the department believes should be imposed in any  
521 final certification.

522 (e) The recommendation of the department regarding the  
523 issuance of any license required pursuant to a federally  
524 delegated or approved permit program.

525 (4) Except when good cause is shown, the failure of any  
526 agency to submit a preliminary statement of issues or a report,  
527 or to submit its preliminary statement of issues or report  
528 within the allowed time, shall not be grounds for the alteration  
529 of any time limitation in this act. Neither the failure to  
530 submit a preliminary statement of issues or a report nor the  
531 inadequacy of the preliminary statement of issues or report  
532 shall be grounds to deny or condition certification.

533 Section 11. Notice of department recommendation, petition  
534 for certification hearing.--

535 (1) The department and the applicant shall publish a  
536 public notice as provided for in this section, announcing the  
537 issuance of the department's recommendation on the application  
538 for site certification. The notice shall be published in the  
539 newspaper or newspapers in the jurisdictions where the proposed  
540 nuclear power plant and any associated facility are proposed to  
541 be located. The notice shall inform the public of the issuance

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

542 of the department's report, the conclusion reached in that  
543 report, and the locations where the department's report and the  
544 application are available for public inspection.

545 (2) Within 14 days after its receipt of the department's  
546 recommendation or within 14 days after the newspaper notice of  
547 the department's recommendation, whichever occurs first, any  
548 party or any person whose substantial interests may be affected  
549 by the proposed nuclear power plant may file with the department  
550 a petition for a site certification hearing. The petition shall  
551 identify the person filing the petition, identify the  
552 substantial interests alleged to be affected, and identify with  
553 specificity those issues which the person alleges require the  
554 conduct of a certification hearing on the proposed nuclear power  
555 plant.

556 (3) Failure to timely file a petition for a certification  
557 hearing shall result in the department's recommendation becoming  
558 final and no longer subject to challenge or reversal in any  
559 proceeding, including, before the board. Only those conditions  
560 contained in the department's recommendation may be imposed  
561 upon the proposed nuclear power plant.

562 Section 12. Land use and certification hearings parties,  
563 participants.--

564 (1) (a) If a petition for a hearing on land use has been  
565 filed pursuant to section 9(3), the designated administrative  
566 law judge shall conduct a land use hearing in the county of the  
567 proposed site or directly associated facility, as applicable, as  
568 expeditiously as possible, but not later than days after the  
569 department's receipt of the petition. The place of such hearing  
570 shall be as close as possible to the proposed site or directly  
571 associated facility. If a petition is filed, the hearing shall  
572 be held regardless of the status of the completeness of the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

573 application. However, incompleteness of information necessary  
574 for a local government to evaluate an application may be claimed  
575 by the local government as cause for a statement of  
576 inconsistency with existing land use plans and zoning ordinances  
577 under s. 403.50665.

578 (b) Notice of the land use hearing shall be published in  
579 accordance with the requirements of section 17.

580 (c) The sole issue for determination at the land use  
581 hearing shall be whether or not the proposed site is consistent  
582 and in compliance with existing land use plans and zoning  
583 ordinances. If the administrative law judge concludes that the  
584 proposed site is not consistent or in compliance with existing  
585 land use plans and zoning ordinances, the administrative law  
586 judge shall receive at the hearing evidence on, and address in  
587 the recommended order any changes to, or approvals or variances  
588 under the applicable land use plans or zoning which will render  
589 the proposed site consistent and in compliance with the local  
590 land use plans and zoning ordinances.

591 (d) The designated administrative law judge's recommended  
592 order shall be issued within 30 days after completion of the  
593 hearing and shall be reviewed by the board within 60 days after  
594 receipt of the recommended order by the board.

595 (e) If it is determined by the board that the proposed  
596 site does conform with existing land use plans and zoning  
597 ordinances in effect as of the date of the application, or as  
598 otherwise provided by this act the responsible zoning or  
599 planning authority shall not thereafter change such land use  
600 plans or zoning ordinances so as to foreclose construction and  
601 operation of the proposed power plant on the proposed site or  
602 directly associated facilities unless certification is  
603 subsequently denied or withdrawn.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

604        (f) If it is determined by the board that the proposed  
605 site does not conform with existing land use plans and zoning  
606 ordinances, the board may, if it determines after notice and  
607 hearing and upon consideration of the recommended order on land  
608 use and zoning issues that it is in the public interest to  
609 authorize the use of the land as a site for an electrical power  
610 plant, authorize an amendment to, rezoning, variance or other  
611 approval to the adopted land use plan and zoning ordinances  
612 required to render the proposed site consistent with local land  
613 use plans and zoning ordinances. The board's action shall not be  
614 controlled by any other procedural requirements of law. In the  
615 event a variance or other approval is denied by the board, it  
616 shall be the responsibility of the applicant to make the  
617 necessary application to the applicable local government for any  
618 approvals determined by the board as required to make the  
619 proposed site consistent and in compliance with local land use  
620 plans and zoning ordinances. No further action may be taken on  
621 the complete application until the proposed site conforms to the  
622 adopted land use plan or zoning ordinances or the board grants  
623 relief as provided under this act.

624        (2) If any party or person whose substantial interests are  
625 affected files a petition for a certification hearing within 14  
626 days after publication of notice of the department's notice of  
627 its recommendation on the application for site certification, a  
628 certification hearing shall be held by the designated  
629 administrative law judge no later than 260 days from the date  
630 the application is filed with the department. However, an  
631 affirmative determination of need by the Public Service  
632 Commission pursuant to this act shall be a condition precedent  
633 to the conduct of the certification hearing. If a timely  
634 petition for a certification hearing is filed, the certification



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

635 hearing shall be held at a location in proximity to the proposed  
636 site. The certification hearing shall also constitute the sole  
637 hearing allowed by chapter 120, Florida Statutes, to determine  
638 the substantial interest of a party regarding any required  
639 agency license or any related permit required pursuant to any  
640 federally delegated or approved permit program. At the  
641 conclusion of the certification hearing, the designated  
642 administrative law judge shall, after consideration of all  
643 evidence of record, submit to the board a recommended order no  
644 later than 60 days after the date of the filing of the hearing  
645 transcript. In the event the administrative law judge fails to  
646 issue a recommended order within 60 days after the date of the  
647 filing of the hearing transcript, the administrative law judge  
648 shall submit a report to the board with a copy to all parties  
649 within 60 days after the date of the filing of the hearing  
650 transcript to advise the board of the reason for the delay in  
651 the issuance of the recommended order and of the date by which  
652 the recommended order will be issued.

653 (3) (a) Parties to the proceeding shall include:

- 654 1. The applicant.  
655 2. The Public Service Commission.  
656 3. The Department of Community Affairs.  
657 4. The Fish and Wildlife Conservation Commission.  
658 5. The Department of Transportation.  
659 6. The water management district.  
660 7. The department.  
661 8. The regional planning council.  
662 9. The local government.

663 (b) Any party listed in paragraph (a) other than the  
664 department or the applicant may waive its right to participate  
665 in these proceedings. If such listed party fails to file a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

666 notice of its intent to be a party on or before the 90th day  
667 prior to the scheduled date for the certification hearing, such  
668 party shall be deemed to have waived its right to be a party.

669 (c) Upon the filing of a notice of intent to be a party  
670 with the administrative law judge and no more than 21 days after  
671 the date of publication of notice of filing of the application  
672 for site certification, the following shall also be parties to  
673 the proceeding:

674 1. Any agency not listed in paragraph (a) as to matters  
675 within its jurisdiction.

676 2. Any domestic nonprofit corporation or association  
677 formed, in whole or in part, to promote conservation or natural  
678 beauty; to protect the environment, personal health, or other  
679 biological values; to preserve historical sites; to promote  
680 consumer interests; to represent labor, commercial, or  
681 industrial groups; or to promote comprehensive planning or  
682 orderly development of the area in which the proposed nuclear  
683 power plant is to be located.

684 (d) Notwithstanding paragraph (e), failure of an agency to  
685 file a notice of intent to be a party within the time provided  
686 in this section shall constitute a waiver of the right of the  
687 agency to participate as a party in the proceeding.

688 (e) Other parties may include any person, including those  
689 persons enumerated in paragraph (c) who have failed to timely  
690 file a notice of intent to be a party, whose substantial  
691 interests are affected and being determined by the proceeding,  
692 and who timely file a motion to intervene pursuant to chapter  
693 120, Florida Statutes, and applicable rules. Late intervention  
694 pursuant to this paragraph may be granted by the designated  
695 administrative law judge upon a showing of good cause that  
696 excuses such late intervention and upon such conditions as he or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

697 she may prescribe any time prior to 30 days before the  
698 commencement of the certification hearing.

699 (f) Any agency, including those whose properties or works  
700 are affected, shall be made a party upon the request of the  
701 department or the applicant.

702 (4) When appropriate, any person may be given an  
703 opportunity to present oral or written communications to the  
704 designated administrative law judge. If the designated  
705 administrative law judge proposes to consider such  
706 communications, then all parties shall be given an opportunity  
707 to cross-examine or challenge or rebut such communications.

708 (5) The designated administrative law judge shall have all  
709 powers and duties granted to administrative law judges by  
710 chapter 120, Florida Statutes, and this act and by the rules of  
711 the department and the Administration Commission, including the  
712 authority to resolve disputes over the completeness and  
713 sufficiency of an application for certification.

714 Section 13. Final disposition of application.--

715 (1) Within 60 days after the date of the issuance of the  
716 department's recommendation if no hearing is held, or within 60  
717 days after the date of the receipt of the designated  
718 administrative law judge's recommended order following a  
719 certification hearing, the board shall act upon the application  
720 by written order, approving certification or denying the  
721 issuance of a certificate, in accordance with the criteria set  
722 forth in this act, and stating the reasons for issuance or  
723 denial. If no hearing has been held, the board shall enter a  
724 final order approving the proposed nuclear power plant subject  
725 only to the conditions of certification contained in the  
726 department's recommendation.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

(2) Following the holding of a certification hearing, in determining whether an application should be approved in whole, approved with modifications or conditions, or denied, the board shall consider whether, and the extent to which, the location, construction, and operation of the proposed nuclear power plant will:

(a) Meet the electrical energy needs of the state in an orderly and timely fashion, as determined by the Public Service Commission.

(b) Comply with nonprocedural requirements of agencies.

(c) Be consistent with applicable local government comprehensive plans and in compliance with applicable zoning ordinances.

(d) Effect a reasonable balance between the need for the nuclear power plant as a means of providing abundant low-cost electrical energy and the impact upon the public and the environment resulting from the location, construction, and operation of the proposed nuclear power plant.

(3) Following the conduct of a certification hearing, if the certificate is denied, the board shall set forth in writing the actions the applicant would have to take to secure the board's approval of the application.

(4) The issues that may be raised in any hearing before the board shall be limited to those matters raised in the certification hearing before the administrative law judge or raised in the recommended order. Only parties may appear before the board and shall be subject to the provisions of s. 120.66, Florida Statutes.

(5) In regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use, the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

758 connection thereto, or the crossing thereof, for the nuclear  
759 power plant and site and to direct any such agency to execute,  
760 within 30 days after the entry of certification, the necessary  
761 license or easement for such use, connection, or crossing,  
762 subject only to the conditions set forth in such certification.

763       Section 14. Alteration of time limits.--Any time  
764 limitation in this act may be altered by the designated  
765 administrative law judge upon stipulation between the department  
766 and the applicant, unless objected to by any party within 5 days  
767 after notice or for good cause shown by any party.

768       Section 15. Superseded laws, regulations, and  
769 certification power.--

770       (1) If any provision of this act is in conflict with any  
771 other provision, limitation, or restriction under any law, rule,  
772 regulation, or ordinance of this state or any political  
773 subdivision, municipality, or agency, this act shall govern and  
774 control, and such law, rule, regulation, or ordinance shall be  
775 deemed superseded for the purposes of this act.

776       (2) The state hereby preempts the siting, regulation, and  
777 certification of nuclear power plant sites and nuclear power  
778 plants as defined in this act.

779       (3) The board may adopt reasonable procedural rules  
780 pursuant to ss. 120.536(1) and 120.54 to carry out its duties  
781 under this act and to give effect to the legislative intent that  
782 this act is to provide an efficient, simplified, centrally  
783 coordinated, one-stop licensing process.

784       Section 16. Effect of certification.--

785       (1) Subject to the conditions set forth in the  
786 certification, any certification signed by the Governor shall  
787 constitute the sole license of the state and any agency as to  
788 the approval of the site and the construction and operation of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

789 the proposed nuclear power plant, except for the issuance of  
790 department licenses required under any federally delegated or  
791 approved permit program and except as otherwise provided in  
792 subsection (4).

793 (2)(a) The certification shall authorize the applicant  
794 named in the certification to construct and operate the proposed  
795 nuclear power plant, subject only to the conditions of  
796 certification set forth in the certification, and except for the  
797 issuance of department licenses or permits required under any  
798 federally delegated or approved permit program.

799 (b) Except as provided in subsection (4), the  
800 certification may include conditions that constitute variances,  
801 exemptions, or exceptions from nonprocedural requirements of the  
802 department or any agency which were expressly considered during  
803 the proceeding including but not limited to any site specific  
804 criteria, standards or limitations under local land use or and  
805 zoning approvals which affect the proposed power plant or its  
806 site unless waived by the agency as provided below and which  
807 otherwise would be applicable to the construction and operation  
808 of the proposed nuclear power plant. No variance, exemption,  
809 exception, or other relief shall be granted from a state statute  
810 or rule for the protection of endangered or threatened species,  
811 aquatic preserves, Outstanding National Resource Waters, and  
812 Outstanding Florida Waters, or for the disposal of hazardous  
813 waste, except to the extent authorized by the applicable statute  
814 or rule, or upon a finding by the board that certifying the  
815 nuclear power plant at the site proposed by the applicant  
816 overrides the public interest protected by the statute or rule  
817 from which relief is sought. Each party shall notify the  
818 applicant and other parties no more than 60 days after the  
819 application is determined sufficient of any nonprocedural

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

requirements not specifically listed in the application from which a variance, exemption, exception, or other relief is necessary in order for the board to certify any nuclear power plant proposed for certification. Failure of such notification by an agency shall be treated as a waiver from nonprocedural requirements of the department or any other agency. However, no variance shall be granted from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

(c) To the extent any condition of certification imposed pursuant to this act is inconsistent with or otherwise in conflict with any requirement of federal law, regulation, or license regulating construction and operation of a nuclear power plant certified under this act, then such condition of certification shall be automatically modified to conform to such federal requirement or be superseded by such federal requirement. The state shall not enforce compliance with any such federal requirement under this act, except to the extent the state is authorized to enforce such condition under federal law.

(3) The certification and any order on land use and zoning issued under this act shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter 253, chapter 298, chapter 370, chapter 373, chapter 376, chapter 380, chapter 381, chapter 387, chapter 403, except for permits issued pursuant to s. 403.0885, Florida Statutes, and except as provided in s. 403.509(3) and (6), Florida Statutes, or chapter 404, Florida Statutes, the Florida Transportation Code, or 33 U.S.C. s. 1341.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

850       (4) This act shall not affect in any way the right of any  
851 local government to charge appropriate fees or require that  
852 construction be in compliance with applicable building  
853 construction codes, provided that in the event of a conflict  
854 between requirements of local building construction codes and  
855 federal requirements, such federal requirements shall supersede  
856 local building construction codes.

857       (5) (a) A nuclear power plant certified pursuant to this  
858 act shall comply with rules adopted by the department subsequent  
859 to the issuance of the certification which prescribe new or  
860 stricter criteria, to the extent that the rules are applicable  
861 to nuclear power plants. Except when express variances,  
862 exceptions, exemptions, or other relief have been granted,  
863 subsequently adopted rules which prescribe new or stricter  
864 criteria shall operate as automatic modifications to  
865 certifications. A holder of a certification issued under this  
866 act may apply to the board for relief from such rules to the  
867 extent relief is available to other electrical power plants in  
868 the state. Any such relief shall be granted in the same manner  
869 as provided for the granting of relief at the time of the  
870 original certification, as provided for in this act.

871       (b) Upon written notification to the department, any  
872 holder of a certification issued pursuant to this act may choose  
873 to operate the certified nuclear power plant in compliance with  
874 any rule subsequently adopted by the department which prescribes  
875 criteria more lenient than the criteria required by the terms  
876 and conditions in the certification which are not site-specific.

877       (c) No term or condition of certification shall be  
878 interpreted to preclude the postcertification exercise by any  
879 party of whatever procedural rights it may have under chapter



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

120, Florida Statutes, including those related to rulemaking proceedings.

Section 17. Notice; costs of proceeding.--

(1) The following notices are to be published by the applicant:

(a) A notice of filing of the application, which shall be published as specified in subsection (2) within 15 days after the application has been determined complete. Such notice shall give notice of the provisions of section 16(1) and (2).

(b) Notice of the land use determination made pursuant to section 9(1) within 15 days after the determination is filed.

(c) Notice of the land use hearing, which shall be published as specified in subsection (2), no later than 15 days before the hearing.

(d) Notice of issuance of the department's agency report and recommendation, which shall be published as specified in subsection (2) no later than 10 days after the report and recommendation are issued by the department.

(e) If a certification hearing is to be conducted, then notice published as specified in subsection (2).

(f) Notice of modification when required by the department, based on whether the requested modification of certification will significantly increase impacts to the environment or the public. Such notice shall be published as specified under subsection (2):

1. Within 21 days after receipt of a request for modification, except that the newspaper notice shall be of a size as directed by the department commensurate with the scope of the modification.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

909        2. If a hearing is to be conducted in response to the  
910 request for modification, then notice shall be provided as  
911 specified in paragraph (e).

912        (g) Notice of a supplemental application, which shall be  
913 published as follows:

914        1. Notice of receipt of the supplemental application shall  
915 be published as specified in paragraph (a).

916        2. Notice of the certification hearing shall be published  
917 as specified in paragraph (f).

918        (2) Notices provided by the applicant shall be published  
919 in newspapers of general circulation within the county or  
920 counties in which the proposed nuclear power plant will be  
921 located. The newspaper notices shall be at least one-half page  
922 in size in a standard size newspaper or a full page in a tabloid  
923 size newspaper and published in a section of the newspaper other  
924 than the legal notices section. These notices shall include a  
925 map generally depicting the project and all associated  
926 facilities corridors, including associated transmission lines,  
927 if any. A newspaper of general circulation shall be the  
928 newspaper which has the largest daily circulation in that county  
929 and has its principal office in that county. If the newspaper  
930 with the largest daily circulation has its principal office  
931 outside the county, the notices shall appear in both the  
932 newspaper having the largest circulation in that county and in a  
933 newspaper authorized to publish legal notices in that county.

934        (3) All notices published by the applicant shall be paid  
935 for by the applicant and shall be in addition to the application  
936 fee.

937        (4) The department shall:

938        (a) Publish in the manner specified in chapter 120,  
939 Florida Statutes, notices of the filing of the application or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

supplemental application; of the land use determination and of the land use hearing, if one is to be held; of the department's report and recommendation; the certification hearing, if one is to be held; the hearing before the board; and stipulations, proposed agency action, or petitions for modification.

(b) Provide copies of those notices to any persons who have requested to be placed on the departmental mailing list for this purpose.

(5) The applicant shall pay those expenses and costs associated with the conduct of the hearings and the recording and transcription of the proceedings.

Section 18 Revocation or suspension of certification.--Any certification may be revoked or suspended:

(1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true answer would have warranted the board's refusal to recommend a certification in the first instance.

(2) For failure to comply with the terms or conditions of the certification.

(3) For violation of the provisions of this act or rules or orders issued under this act.

Section 19. Review.--Proceedings under this act shall be subject to judicial review in the Florida Supreme Court. Separate appeals of the certification order issued by the board and of any department permit issued pursuant to a federally delegated or approved permit program shall be consolidated for purposes of judicial review. Review on appeal shall be based solely on the record before the board and briefs to the court and shall be limited to determining whether the certification order conforms to the constitution and laws of this state and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

the United States and is within the authority of the board under this act. The Supreme Court shall proceed to hear and determine the action as expeditiously as practicable and give the action precedence over other matters not accorded similar precedence by law.

Section 20. Enforcement of compliance.--Failure to obtain a certification or to comply with the conditions of certification or this act shall constitute a violation of chapter 403, Florida Statutes.

Section 21. Availability of information.--The department shall make available for public inspection and copying during regular office hours, at the expense of any person requesting copies, any information filed or submitted to the department pursuant to this act.

Section 22. Modification of certification.--

(1) A certification may be modified after issuance in any one of the following ways:

(a) The board may delegate to the department the authority to modify specific conditions in the certification.

(b) The department may modify the terms and conditions of the certification if no party to the certification hearing objects in writing to such modification within 45 days after notice by mail to such party's last address of record and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days after issuance of public notice. If objections are raised, the applicant may file a petition for modification pursuant to paragraph (c).

(c) Any petition for modification shall be filed with the department and the Division of Administrative Hearings. A petition for modification may be filed by the applicant or the department setting forth:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1. The proposed modification.

2. The factual reasons asserted for the modification.

3. The anticipated effects of the proposed modification on the applicant, the public, and the environment.

(2) Petitions filed pursuant to this section shall be disposed of in the same manner as an application, but with time periods established by the administrative law judge commensurate with the significance of the modification requested.

(3) Any agreement or modification under this section must be in accordance with the terms of this act. No modification to a certification shall be granted that constitutes a variance from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

Section 23. Supplemental applications for sites certified for ultimate site capacity.--

(1)(a) The department shall adopt rules governing the processing of supplemental applications for certification of the construction and operation of nuclear power plants to be located at sites which have been previously certified for an ultimate site capacity pursuant to this act. Supplemental applications shall be limited to nuclear power plants using the fuel type previously certified for that site. The rules adopted pursuant to this section shall include provisions for:

1. Prompt appointment of a designated administrative law judge.

2. The contents of the supplemental application.

3. Resolution of disputes as to the completeness and sufficiency of supplemental applications by the designated administrative law judge.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1032 4. Public notice of the filing of the supplemental  
1033 applications.

1034 5. Time limits for prompt processing of supplemental  
1035 applications.

1036 6. Final disposition by the board within 215 days after  
1037 the filing of a complete supplemental application.

1038 (b) The time limits shall not exceed any time limitation  
1039 governing the review of initial applications for site  
1040 certification pursuant to this act, it being the legislative  
1041 intent to provide shorter time limitations for the processing of  
1042 supplemental applications for nuclear power plants to be  
1043 constructed and operated at sites which have been previously  
1044 certified for an ultimate site capacity.

1045 (c) Any time limitation in this section or in rules  
1046 adopted pursuant to this section may be altered by the  
1047 designated administrative law judge upon stipulation between the  
1048 department and the applicant, unless objected to by any party  
1049 within 5 days after notice or for good cause shown by any party.  
1050 The parties to the proceeding shall adhere to the provisions of  
1051 chapter 120, Florida Statutes, and this act in considering and  
1052 processing such supplemental applications.

1053 (2) Supplemental applications shall be reviewed as  
1054 provided in this act, except that the time limits provided in  
1055 this section shall apply to such supplemental applications.

1056 (3) The land use and zoning consistency determination of  
1057 s. 403.50665 shall not be applicable to the processing of  
1058 supplemental applications pursuant to this section so long as:

1059 (a) The previously certified ultimate site capacity is not  
1060 exceeded; and

1061 (b) The lands required for the construction or operation  
1062 of the electrical power plant which is the subject of the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1063 supplemental application are within the boundaries of the  
1064 previously certified site.

1065 (4) For the purposes of this act, the term "ultimate site  
1066 capacity" means the maximum generating capacity for a site as  
1067 certified by the board.

1068 Section 24. Fees; disposition.--The department shall  
1069 charge the applicant the following fees, as appropriate, which  
1070 shall be paid into the Florida Permit Fee Trust Fund:

1071 (1) An application fee, which shall not exceed \$200,000.  
1072 The fee shall be fixed by rule on a sliding scale related to the  
1073 size, type, ultimate site capacity, increase in generating  
1074 capacity proposed by the application, or the number and size of  
1075 local governments in whose jurisdiction the nuclear power plant  
1076 is located.

1077 (a) Sixty percent of the fee shall go to the department to  
1078 cover any costs associated with reviewing and acting upon the  
1079 application, to cover any field services associated with  
1080 monitoring construction and operation of the facility, and to  
1081 cover the costs of the public notices published by the  
1082 department.

1083 (b) Twenty percent of the fee or \$25,000, whichever is  
1084 greater, shall be transferred to the Administrative Trust Fund  
1085 of the Division of Administrative Hearings of the Department of  
1086 Management Services.

1087 (c) Upon written request with proper itemized accounting  
1088 within 90 days after final agency action by the board or  
1089 withdrawal of the application, the department shall reimburse  
1090 the Department of Community Affairs, the Fish and Wildlife  
1091 Conservation Commission, any water management district created  
1092 pursuant to chapter 373, Florida Statutes, regional planning  
1093 council, and local government in the jurisdiction of which the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1094 proposed nuclear power plant is to be located, and any other  
1095 agency from which the department requests special studies  
1096 pursuant to this act. Such reimbursement shall be authorized for  
1097 the preparation of any studies required of the agencies by this  
1098 act, for agency travel and per diem to attend any hearing held  
1099 pursuant to this act, and for local governments to participate  
1100 in the proceedings. In the event the amount available for  
1101 allocation is insufficient to provide for complete reimbursement  
1102 to the agencies, reimbursement shall be on a prorated basis.

1103 (d) If any sums are remaining, the department shall retain  
1104 them for its use in the same manner as is otherwise authorized  
1105 by this act; provided, however, that if the certification  
1106 application is withdrawn, the remaining sums shall be refunded  
1107 to the applicant within 90 days after withdrawal.

1108 (2) A certification modification fee, which shall not  
1109 exceed \$30,000. The fee shall be submitted to the department  
1110 with a formal petition for modification to the department. This  
1111 fee shall be established, disbursed, and processed in the same  
1112 manner as the application fee in subsection (1), except that the  
1113 Division of Administrative Hearings shall not receive a portion  
1114 of the fee unless the petition for certification modification is  
1115 referred to the Division of Administrative Hearings for hearing.  
1116 If the petition is so referred, only \$10,000 of the fee shall be  
1117 transferred to the Administrative Trust Fund of the Division of  
1118 Administrative Hearings of the Department of Management  
1119 Services. The fee for a modification by agreement shall be  
1120 \$10,000, to be paid upon the filing of the request for  
1121 modification. Any sums remaining after payment of authorized  
1122 costs shall be refunded to the applicant within 90 days after  
1123 issuance or denial of the modification or withdrawal of the  
1124 request for modification.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1125 (3) A supplemental application fee, not to exceed \$75,000,  
1126 to cover all reasonable expenses and costs of the review,  
1127 processing, and proceedings of a supplemental application. This  
1128 fee shall be established, disbursed, and processed in the same  
1129 manner as the certification application fee in subsection (1)  
1130 except that only \$20,000 of the fee shall be transferred to the  
1131 Administrative Trust Fund of the Division of Administrative  
1132 Hearings of the Department of Management Services.

1133 Section 25. Exclusive forum for determination of need.--

1134 (1) On request by an applicant, the Public Service  
1135 Commission shall begin a proceeding to determine the need for a  
1136 nuclear power plant subject to this act. The applicant shall  
1137 publish a notice of the proceeding in a newspaper of general  
1138 circulation in each county in which the proposed nuclear power  
1139 plant will be located. The notice shall be at least one-quarter  
1140 of a page and published at least 21 days prior to the scheduled  
1141 date for the proceeding.

1142 (2)(a) The commission shall hold a hearing within 90 days  
1143 after the filing of the petition and shall issue an order  
1144 granting or denying the petition to determine need within 135  
1145 days after the date of the filing of the petition. The  
1146 commission shall be the sole forum for the determination of this  
1147 matter and the issues addressed in the petition, which  
1148 accordingly shall not be reviewed in any other forum. In making  
1149 its determination to either grant or deny a petition for  
1150 determination of need, the commission shall consider the need  
1151 for electric system reliability and integrity, including fuel  
1152 diversity, the need for base-load generating capacity, and the  
1153 need for adequate electricity at a reasonable cost.

1154 (b) The applicant's petition shall include:

1155 1. A description of the need for the generation capacity.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1156       2. A description of how the proposed nuclear power plant  
1157 will enhance the reliability of electric power production within  
1158 the state by improving the balance of power plant fuel diversity  
1159 and reducing Florida's dependence on fuel oil and natural gas.

1160       3. A description of and a nonbinding estimate of the cost  
1161 of the nuclear power plant.

1162       4. The annualized base revenue requirement for the first  
1163 12 months of operation of the nuclear power plant.

1164       (c) In making its determination, the commission shall take  
1165 into account matters within its jurisdiction, which it deems  
1166 relevant, including whether the nuclear power plant will:

1167       1. Provide needed base-load capacity.

1168       2. Enhance the reliability of electric power production  
1169 within the state by improving the balance of power plant fuel  
1170 diversity and reducing Florida's dependence on fuel oil and  
1171 natural gas.

1172       3. Provide the most cost-effective source of power, taking  
1173 into account the need to improve the balance of fuel diversity,  
1174 reduce Florida's dependence on fuel oil and natural gas, reduce  
1175 air emission compliance costs, and contribute to the long-term  
1176 stability and reliability of the electric grid.

1177       (3) No provision of rule 25-22.082, Florida Administrative  
1178 Code, shall be applicable to a nuclear power plant sited under  
1179 this act, including provisions for cost recovery, and an  
1180 applicant shall not otherwise be required to secure competitive  
1181 proposals for power supply prior to making application under  
1182 this act or receiving a determination of need from the  
1183 commission.

1184       (4) The commission's determination of need for a nuclear  
1185 power plant shall create a presumption of public need and  
1186 necessity and shall serve as the commission's report. An order

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1187 entered pursuant to this section constitutes final agency  
1188 action. Any petition for reconsideration of a final order on a  
1189 petition for need determination shall be filed within 5 days  
1190 after the date of such order. The commission's final order,  
1191 including any order on reconsideration, shall be reviewable on  
1192 appeal in the Florida Supreme Court. Inasmuch as delay in the  
1193 determination of need will delay siting of a nuclear power plant  
1194 or diminish the opportunity for savings to customers under the  
1195 federal Energy Policy Act of 2005, the Supreme Court shall  
1196 proceed to hear and determine the action as expeditiously as  
1197 practicable and give the action precedence over matters not  
1198 accorded similar precedence by law.

1199 (5) After a petition for determination of need has been  
1200 granted, the right of a utility to recover any costs incurred  
1201 prior to commercial operation, including, but not limited to  
1202 costs associated with the siting, design, licensing, or  
1203 construction of the plant, shall not be subject to challenge  
1204 unless and only to the extent the commission finds, based on a  
1205 preponderance of the evidence adduced at a hearing before the  
1206 commission under s. 120.57, Florida Statutes, that certain costs  
1207 were imprudently incurred. Proceeding with the construction of  
1208 the nuclear power plant following an order by the commission  
1209 approving the need for the nuclear power plant under this act  
1210 shall not constitute or be evidence of imprudence. Imprudence  
1211 also shall not include any cost increases due to events beyond  
1212 the utility's control.

1213  
1214 Further, a utility's right to recover costs associated with a  
1215 nuclear power plant may not be raised in any other forum or in  
1216 the review of proceedings in such other forum. Costs incurred

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

prior to commercial operation shall be recovered pursuant to chapter 366, Florida Statutes.

Section 26. 366.93 is created to read:

366.93 Cost recovery for the siting, design, licensing, and construction of nuclear power plants.--

(1) As used in this section, the term:

(a) "Cost" includes, but is not limited to, all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction or operation of the nuclear power plant.

(b) "Electric utility" or "utility" has the same meaning as that provided in s. 366.8255(1)(a),

(c) "Nuclear power plant" or "plant" has the same meaning as that provided in the Florida Energy Diversity and Efficiency Act.

(d) "Pre-construction" is that period of time after a site has been selected through and including the date the utility begins site clearing work. Preconstruction costs shall be afforded deferred accounting treatment and shall accrue a carrying charge equal to the utility's AFUDC rate until recovered in rates.

(2) Within six months after the enactment of this act, the Commission shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing and construction of nuclear power plant. Such mechanisms shall be designed to promote utility investment in nuclear plants and allow for the recovery in rates all prudently incurred costs, and shall include, but are not limited to:

(a) Recovery through the capacity cost recovery clause of any preconstruction costs.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1248        (b) Recovery through an incremental increase in the  
1249 utility's capacity cost recovery clause rates the carrying costs  
1250 on the utility's projected construction cost balance associated  
1251 with the nuclear power plant. To encourage investment and  
1252 provide certainty, for nuclear power plant need petitions  
1253 submitted on or before December 31, 2010, associated carrying  
1254 costs shall be equal to the pre-tax AFUDC in effect upon this  
1255 bill becoming law. For nuclear power plants for which need  
1256 petitions are submitted after December 31, 2010, the utility's  
1257 existing pre-tax AFUDC rate is presumed to be appropriate unless  
1258 determined otherwise by the commission in the determination of  
1259 need for the nuclear power plant.

1260        (3) After a petition for determination of need is granted,  
1261 a utility may petition the Commission for cost recovery as  
1262 permitted by this section and Commission rules.

1263        (4) When the nuclear power plant is placed in commercial  
1264 service, the utility shall be allowed to increase its base rate  
1265 charges by the projected annual revenue requirements of the  
1266 nuclear power plant based on the jurisdictional annual revenue  
1267 requirements of the plant for the first twelve months of  
1268 operation. The rate of return on capital investments shall be  
1269 calculated using the utility's rate of return last approved by  
1270 the commission prior to the commercial in-service date of the  
1271 nuclear power plant. If any existing generating plant is  
1272 retired as a result of operation of the nuclear power plant, the  
1273 commission shall allow for the recovery, through an increase in  
1274 base rate charges, of the net book value of the retired plant  
1275 over a period not to exceed five years.

1276        (5) The utility shall report to the commission annually  
1277 the budgeted and actual costs as compared to the estimated in-  
1278 service cost of the nuclear power plant provided by the utility

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

pursuant to section 25(2)(b) until the commercial operation of the nuclear power plant. The utility shall provide such information on an annual basis following the final order by the commission approving the determination of need for the nuclear power plant, with the understanding that some costs may be higher than estimated and other costs may be lower.

(6) In the event the utility elects not to complete or is precluded from completing construction of the nuclear power plant, the utility shall be allowed to recover all prudent pre-construction and construction costs incurred following the commission's issuance of a final order granting a determination of need for the nuclear power plant. The utility shall recover such costs through the capacity cost recovery clause over a period equal to the period during which the costs were incurred or five years, whichever were greater. The un-recovered balance during the recovery period will accrue interest at the utility's weighted average cost of capital as reported in the commission's earnings surveillance reporting requirement for the prior year.

Section 27. This act shall take effect upon becoming law.

===== T I T L E   A M E N D M E N T =====

Remove everthing before the enacting clause and insert:

A bill to be entitled

An act relating to the "Florida Energy Diversity and Efficiency Act"; providing a short title; providing purpose; providing definitions; providing requirements for the authorization, certification, and siting of nuclear power plants; providing for a Nuclear Power Plant Siting Board; enumerating the related powers and duties of the Department of Environmental Protection, including rulemaking authority; requiring certain application,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1310 certification, and licensure of nuclear power plants; specifying  
1311 applicability to certain nuclear power plants; providing for  
1312 distribution of certain applications and schedules; directing  
1313 the Division of Administrative Hearings to appoint an  
1314 administrative judge to conduct certain hearings; providing for  
1315 the determination of application and amendment completeness;  
1316 requiring a review of land use and zoning consistency; requiring  
1317 affected agencies to submit certain reports; providing  
1318 requirements and procedures with respect thereto; requiring  
1319 public notice of department recommendation and petition for  
1320 certification hearings; providing for land use and certification  
1321 hearings; providing requirements and procedures with respect  
1322 thereto; authorizing the board to have final disposition on  
1323 certification applications; providing that this act supersedes  
1324 certain laws and regulations; providing for effect of  
1325 certification; requiring certain public notice; providing  
1326 responsibility for certain costs; providing for revocation or  
1327 suspension of certification; providing for appeal and review of  
1328 proceedings under the act; providing for compliance enforcement;  
1329 requiring the department to make information available to the  
1330 public; providing requirements and procedures for modification  
1331 of certification; providing for supplemental applications for  
1332 sites certified for ultimate site capacity; requiring certain  
1333 fees; providing for deposit into the Florida Permit Fee Trust  
1334 Fund and for subsequent distribution; requiring the Public  
1335 Service Commission to hold hearings on determination of need;  
1336 providing requirements and procedures with respect thereto;  
1337 creating ch. 366.93, F.S.; providing definitions; requiring the  
1338 Public Service Commission to implement rules related to nuclear  
1339 power plant cost recovery; requiring a report; providing an  
1340 effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

WHEREAS, the extraordinary and unprecedented global increases in the cost of fuel oil and natural gas, coupled with the state's rapidly growing population and increasing demands for electric energy, have brought into sharp focus the need to enhance fuel diversity, and

WHEREAS, the world growth in demand for fuel oil and natural gas may continue to have further impact on the cost and supply of these resources, and

WHEREAS, the impact of Hurricane Katrina on supplies of natural gas and fuel oil further substantiates the need to alter the balance of fuel diversity in connection with the generation of electricity in the state, and

WHEREAS, the federal Energy Policy Act of 2005 encourages the siting and operation of new nuclear generation by providing tax and other incentives to reduce the costs of such plants, and

WHEREAS, significant federally funded benefits and incentives available under the federal Energy Policy Act of 2005 are available to only the first 6,000 megawatts of new advanced nuclear reactor generating capacity licensed in the United States, and

WHEREAS, operation of new nuclear power generation within the state, particularly if such generation is eligible for the tax and other incentives available under the federal Energy Policy Act of 2005, will benefit the state's electric customers, and

WHEREAS, existing provisions of the Florida Electrical Power Plant Siting Act are inadequate to address the unique issues of siting nuclear power generation within the state and securing benefits under the federal Energy Policy Act of 2005, NOW, THEREFORE,



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

1372

# COMMITTEE MEETING REPORT

## Utilities & Telecommunications Committee

3/30/2006 9:45:00AM

Location: 404 HOB

PCB UT 06-01 : Florida Public Service Commission Re-Write

☒ Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Bob Allen			X		
Thomas Anderson	X				
Bruce Antone			X		
Gustavo Barreiro	X				
Marti Coley	X				
Anitere Flores	X				
Denise Grimsley			X		
Bob Henriquez	X				
Randy Johnson			X		
Stan Jordan	X				
Arthenia Joyner	X				
David Mealor			X		
Dave Murzin	X				
Curtis Richardson	X				
Yolly Roberson	X				
Shelley Vana	X				
Kenneth Littlefield (Chair)	X				
<b>Total Yeas: 12      Total Nays: 0</b>					

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM

**COMMITTEE MEETING REPORT**  
**Utilities & Telecommunications Committee**  
**3/30/2006 9:45:00AM**

**Location:** 404 HOB

**Summary:**

**Utilities & Telecommunications Committee**

*Thursday March 30, 2006 09:45 am*

HB 1199 Favorable With Committee Substitute

Yeas: 11 Nays: 4

Amendment 1 Adopted

Amendment 2 Adopted

Amendment 3 Adopted

Amendment 4 Adopted

Amendment 5 Adopted

Amendment 6 Adopted

HB 1339 Favorable With Committee Substitute

Yeas: 15 Nays: 0

Amendment 1 Adopted

HB 1471 Favorable With Committee Substitute

Yeas: 13 Nays: 1

Amendment 1 Adopted

PCB UT 06-01 Favorable

Yeas: 12 Nays: 0

Committee meeting was reported out: Thursday, March 30, 2006 2:08:03PM



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1471  
**SPONSOR(S):** Attkisson  
**TIED BILLS:**

Florida Energy Diversity and Efficiency Act

**IDEN./SIM. BILLS:** SB 2494

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee		Holt <i>ugh</i>	Holt <i>ugh</i>
2) Fiscal Council			
3) Commerce Council			
4)			
5)			

### SUMMARY ANALYSIS

HB1471 creates the "Florida Energy Diversity and Efficiency Act," to govern the siting of new nuclear power plants. The Act is modeled after the existing Power Plant Siting Act, Chapter 403.509, F.S.

The bill streamlines the siting process while ensuring public input. The legislation also allows the Governor and Cabinet, sitting as the Siting Board, to assess the need and approve/deny the plant.

The bill consolidates all issues into one hearing before an Administrative Law Judge (local land use hearing is consolidated into ALJ hearing)

The definitions for "associated facilities" and "associated transmission lines," are broadened to create a single forum for "one-stop" permitting of all transmission issues. The bill also defines the scope of intervention in transmission line siting procedures in an effort to eliminate unnecessary delays.

Public Service Commission's (PSC) need determination is also included in the bill, and the bill imposes a 135-day schedule on the PSC for issuing a need order. Issues are defined that the PSC can address in the need proceeding and requires the PSC to grant the utility's petition upon a finding that the plant will (1) provide needed baseload capacity; (2) enhance the reliability of production in the state by improving fuel diversity and lessening reliance on natural gas and oil; (3) mitigate air emissions and; (4) provide the most cost-effective – though not necessarily the least-cost –generating alternative. Further, the bill excludes nuclear plants from the PSC bid rule.

Other provisions provide that once a need petition is granted, costs incurred shall not be subject to challenge unless and only to the extent the PSC finds, based on clear and convincing evidence offered at a hearing initiated by the PSC, that the utility was imprudent in incurring costs significantly in excess of the initial, non-binding estimate provided by the utility.

The fiscal impact is unknown at this time.

The bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Maintain Public Security: Through the further diversification of the State fuel supply, the siting of new nuclear generation may lessen the dependence on any one particular fuel, in order to ensure power reliability.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Department of Environmental Protection

Certification of nuclear fueled, steam turbine, electric power generation facilities is presently done under the authority of the Electrical Power Plant Siting Act (PPSA), ss. 403.501-403.518 and ss. 403.519, F.S. The PPSA is a centralized, coordinated licensing process. This process preempts all state, regional, and local permits and other authorizations that have jurisdiction for regulation and siting of industrial facilities. All affected agencies participate as parties to the process and all non-procedural requirements of the preempted agencies are included in the certification as conditions of certification.

The PPSA is highly procedural and includes a determination of need by the Public Service Commission (PSC) ss. 403.519, F.S., a mandatory land use hearing and a mandatory certification hearing by an administrative law judge, with ultimate approval/denial authority vested in the Siting Board (Governor and Cabinet). The DEP coordinates the process.

An administrative law judge is involved from the beginning, and the process is handled as litigation and requires the exchange of most documents as legal filings. Persons wishing to become formally involved in the process, for the most part, must become parties to the proceeding. Additional opportunities exist for public comment.

##### Public Service Commission

A precedent condition for a electrical project to proceed under the PPSA (s. 403.508(3)) is an affirmative determination of plant need from the PSC. In implementing the requirements of s. 403.508(3), the PSC has established rules controlling the information to be included in a petition for need and the schedule of administrative events in order to meet the requirements of the PPSA. Section 403.519, F.S., requires the PSC, in considering whether to approve a need petition, to take into account several criteria. These criteria include the need for electric system reliability and integrity; the need for adequate electricity at a reasonable cost; whether the proposed plant is the most cost-effective alternative available; available conservation measures which mitigate the need for the plant; and other matters within the PSC's jurisdiction.

In determining whether the proposed plant is the most cost-effective alternative, the PSC established Rule 25-22.082, F.A.C. Selection of Generating Capacity. This rule requires utilities to request bids for alternatives to its proposed plant in order to meet the identified need for power. The effect of the rule is to provide the PSC with more complete information about potential alternatives to the proposed power plant to use as a consideration in its deliberation of the project's cost-effectiveness.

##### Federal Legislation

The Energy Policy Act of 2005 provides significant financial incentives that may inure to the benefit of Florida consumers. These incentives, however, are limited to the first 6,000 megawatts of new nuclear plants constructed. To date, utilities in a number of other states have announced their intent to build new nuclear plants.

#### EFFECT OF PROPOSED CHANGES

Section 1. The act may be cited as the Florida Energy Diversity and Efficiency Act.

Section 2. The bill provides legislative intent declaring that it is in the public interest and critical to the health, prosperity, and general welfare of the state and its citizens to promote the expansion of nuclear generation by the siting of new nuclear power plants and associated facilities within the state.

Section 3. Definitions: The bill provides definitions as used in this act. The definitions are adapted largely from those used in the PPSA, with exceptions for using the term "nuclear" in lieu of "electric." Noteworthy, however, are the following definitions which are expanded from the PPSA for use in the act:

(4) "Applicant" means any electric utility as defined under s. 366.8255(1)(a)<sup>1</sup>, Florida Statutes, city, town, county, public utility district, electric cooperative, or joint operating agency, or combination thereof, authorized under Florida law to engage in the business of generating, transmitting, or distributing electric energy to retail electric customers in the state.

The regulatory approval of a nuclear plant in the bill only applies to retail serving utilities as defined in s. 366.8255(10)(a). This allows for the inclusion of municipal and rural electric utilities. Historically, no individual Florida municipal or rural electric cooperative has sought to construct a nuclear unit. However, joint ownership arrangements could exist, and these entities as a result could have ownership shares of future nuclear plants.

(21) "Nuclear power plant" means, for the purpose of certification, any electrical generating facility using any process involving nuclear materials, fuels, or processes and, at the applicant's election, includes associated facilities and associated transmission lines.

The definition includes, at the applicant's option, associated transmission lines which encompass not only lines and substations directly interconnected to nuclear plants, but any transmission upgrades or expansions on the state's transmission system. As a result, any grid-wide upgrades required to reliably handle the electric output of the proposed nuclear plant would be considered as part of the licensing process required under this act.

Three concerns were raised in this regard to the definition: 1) definition goes beyond the current definition of associated facilities contained in the PPSA. 2) references to the notice provisions and request for hearings use the term "nuclear power plant" and make no mention of "associated facilities. 3) in order for the Siting Board to comprehensively balance the cost and benefits of an new nuclear power plant, all directly associated facilities should be included in the application and evaluated by the reporting agencies, and should not be at the applicant's option.

The bill deletes the definitions used in PPSA for "person" and "sufficiency."

Section 4. Department of Environmental Protection; powers and duties enumerated: Powers are designated to the DEP to adopt rules to implement the act provisions and conduct various studies. However, the concern was raised the bill provides DEP with no authority to issue final orders if not hearing is requested.

Section 5. Applicability and certification: Provisions provide that the act applies exclusively to any new nuclear power plant and to any expansion in steam-generation capacity of any existing nuclear power plant. Any new construction and capacity expansion occurring after the effective date of this requires certification under this act. The bill provides an exemption from modification of certification for

---

(1) As used in this section, the term:

(a) "Electric utility" or "utility" means any investor-owned electric utility that owns, maintains, or operates an electric generation, transmission, or distribution system within the State of Florida and that is regulated under this chapter.

changes to fuel make-up that result in no increase of generation capacity. The processing of any federally delegated or approved program shall be processed within the time constraints of the certification review.

Section 6. Distribution of application; schedules: The bill provides that:

- within 7 days after an site certification application (SCA) is filed, the DEP shall provide the applicant and the Division of Administrative Hearings (DOAH) the names and addresses of affected parties.
- within 7 days after an SCA is determined complete, the DEP distributes the processing schedules. (According to DEP, this could be 66 days after receipt of a SCA. See the correlating note in s. 8 regarding 45 days after receipt for a SCA completeness determination.)
- within 7 days after DEP provides the names and addresses of the affected parties, the applicant distributes copies of the application to all affected parties.

Section 7. Appointment of administrative law judge: The bill provides that:

- within 7 days of receipt to the SCA, the DEP request DOAH to designate and administrative law judge (ALJ).
- within 7 days of receipt of the DEP request, DOAH appoints an ALJ.

Section 8. Determination of completeness: The bill provides that:

- within 30 days of distribution of the SAC, agencies are to submit recommendations on completion to DEP
- within 45 days of distribution, the DEP submits its statement on completeness with the applicant and DOAH. (The bill combines at this point the determination of completeness and the determination of sufficiency which are separate concepts in PPSA).

If a finding of incompleteness is declared, the applicant may: 1) withdraw SCA or amendment, or 2) within forty days or such later date as authorized by department rules, file additional information (DEP then has thirty days to issue a second completeness finding), or 3) ask for additional time to file additional information, or 4) ask for an administrative hearing. If a hearing is requested, the request must be filed within fifteen days. If a hearing is requested, the request must be filed within fifteen days. The hearing shall be within twenty-one days of request and ALJ's decision to be within ten days of end of hearing and all processing time-clocks are tolled until the ALJ's decision.

Section 9. Preliminary statements of issues, reports, and studies: Affected agencies within 45 days of SCA distribution are to file preliminary statement of issues. Statutory agencies, or any other agency, must submit agency reports within 60 days of completeness. All proposed conditions of certification shall specify specific statute, rule, or ordinance which authorizes the condition. No condition may be included in the conditions of certification without such specific authorization.

DEP issues a written analysis 85 days after application determined complete. Analysis contains statement of compliance with agency rules, copies of studies and reports, comments from other agencies or persons, DEP recommendations on disposition of the application, variances or exemptions and exceptions, and DEP's recommendation of federal permits.

Section 10. Notice of department recommendation, petition for certification hearing: DEP and the applicant shall publish notice of DEP's recommendation on the SCA and any associated facilities in newspapers of the affected areas. (In correlation with section 4, if no hearing is requested, DEP's believes it final order would not be challengeable).

Section 11. Certification proceedings, parties, participants: If any party or person whose substantial interest are affected files a petition for a certification hearing within 14 days after DEP's SCA recommendation. It is unclear the definition of "person" since the term was deleted from the definitions.



A certification hearing shall be held by the designated ALJ no later than 260 days from the date the application is filed with DEP. An affirmative determination of need by the PSC shall be a condition precedent to conducting a certification hearing.

Except when good cause is demonstrated, the failure of any agency to submit a preliminary statement of issues or a report or proper submission shall not be grounds for the alteration of any time limitation in the act. Moreover, neither the failure to submit a preliminary statement of issues, or a report, nor the inadequacy of the preliminary statement of issues or report shall be grounds to deny or condition certification.

Further, the bill outlines the parties to the certification proceeding.

Section 12. Final disposition of application: If no certification hearing is held, or within 60 days of ALJ's recommended order following a certification hearing, the SB must approve or deny issuance of a certification by written order. If denied, the reasons for denial are to also be included in the order. Criteria are provided upon which the SB is to consider whether an SCA is to be approved in whole, with modifications or conditions, or denied. If certification is denied, the SB is required to set forth in writing actions needed to secure approval. Concerns were raised in this section concerning: 1) that the bill does not contemplate fatal error that cannot be fixed; 2) that only parties to the proceeding may appear before the SB thereby creating a situation that is contrary to Government in the Sunshine; 3) that local comprehensive plans are to be overridden by the SB to allow the project at the selected site.

Section 13. Alteration of time limits: The provisions in this section are identical to the PPSA.

Section 14. Superseded laws, regulations, and certification power:

(1) If any provision of this act is in conflict with any other provision, limitation, or restriction under any law, rule, regulation, or ordinance of this state or any political subdivision, municipality, or agency, this act shall govern and control, and such law, rule, regulation, or ordinance shall be deemed superseded for the purposes of this act.

(2) The state hereby preempts the siting, regulation, and certification of nuclear power plant sites and nuclear power plants as defined in this act.

(3) The board may adopt reasonable procedural rules pursuant to ss. 120.536(1) and 120.54 to carry out its duties under this act and to give effect to the legislative intent that this act is to provide an efficient, simplified, centrally coordinated, one-stop licensing process.

Section 15. Effect of certification: The majority of these provisions model the PPSA. However, concern was raised that agencies have 60 days after completeness to notify an applicant that a variance, exemption or other relief is needed. This is the same date agency reports are due. It appears the bill offers no response time to the applicant, and no time is given to DEP to include the additional information into the DEP report.

Section 16. Notice; costs of proceeding: The provisions of this section model the PPSA.

Section 17. Revocation or suspension of certification: The provisions of this section model the PPSA.

Section 18. Review: The bill provides that proceedings under this act shall be subject to judicial review in the Florida Supreme Court. Separate appeals of the certification and federally delegated or approved permit programs shall be consolidated for purposes of judicial review. Review on appeal shall be based solely on the record before the board and briefs to the court and shall be limited to determining whether the certification order conforms to the constitution and laws of this state and the United States and is within the authority of the board under this act. The Supreme Court shall expeditiously as practicable review the case. Concern has been raised regarding this provision creating an avenue of appeal contrary to the requirements of section 10.

Section 19. Enforcement of compliance: The provisions of this section model the PPSA.

Section 20. Availability of information: The provisions of this section model the PPSA.

Section 21. Modification of a certificate: The majority of this section models the PPSA. The DEP proposed clarifying the language in regard the initial request to specify who makes it and how, as well as what is needed to irely accomplish a modification.

Section 22. Supplemental applications for sites certified for ultimate capacity: The majority of this provision models the PPSA.

Section 23. Fees; disposition: The bill provides fee provisions similar to the PPSA. However, the DEP noted that the fees are too low, and that DOAH receives it full fee even if there is no hearing.

Section 24. Exclusive forum for determination of need: The provisions of this section are similar to the PPSA. The PSC is the sole forum for determination of electrical need. Section 403.519 reads in part:

In making its determination, the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, and whether the proposed plant is the most cost-effective alternative available.

The bill proposes new language is s. (2)(a) that reads:

In making its determination to either grant or deny a petition for determination of need, the commission shall consider the need for electric system reliability and integrity, including fuel diversity, the need for base-load generating capacity, and the need for adequate electricity at a reasonable cost.

According to the PSC, it has and can examined fuel diversity and type of generating plant that is being requested as part of its consideration of a ed petition. The bill however makes fuel diversity and base-load generating capacity specific criteria.

Section (2)(c) has outlined that the Commission "shall grant" a petition for need if it finds that the proposed nuclear plant will: 1) provide needed baseload capacity, 2) enhance the reliability of electric power within the state and reduce Florida's dependence on fuel oil and natural gas, and 3) provide a "cost-effective, although not necessarily the least cost source of power, taking into account the need to improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, mitigate air emission effects within the state, and contribute to the long-term stability and reliability of the electric grid."

However, the PSC has limited expertise but no jurisdiction as it relates to mitigation of air impacts within the state. It does however consider environmental costs associated with proposed power plants.

Section (3) exempts nuclear plants from the FPSC Rule 25-22.082, Selection of Generating Capacity. This rule requires utilities prior to requesting a determination of need to solicit bids from alternative providers of generating capacity. The effect of the rule is to provide the PSC with more complete information about potential alternatives to the proposed power plant to use as a consideration in its deliberation of the project's cost-effectiveness. Requirements of the bid rule can be waived upon a showing by a public utility and a finding by the PSC "that a proposal not in compliance with this rule's provisions will likely result in a lower cost supply of electricity to the utility's general body of ratepayers, increase the reliable supply of electricity to the utility's general body of ratepayers, or otherwise will

serve the public welfare." The exemption of nuclear units from this process would reduce the amount of time necessary to proceed with a need hearing.

Section (4) addresses procedural issues. First, the PSC's final order will serve as the report that must be submitted to the DEP under Section 9(2)(a)2. After consideration of any Motions for Reconsideration, a party may appeal the final PSC's order to the Florida Supreme Court. Any such appeals must be based on the record before the PSC and the issues to be considered are limited to whether the order "conforms to the constitution and laws of this state and the United States and is within the authority of the Commission under this section." It also directs the Supreme Court to hear such appeals as "expeditiously as possible".

Section (5) outlines cost recovery with specific direction that once the need determination has been granted, the utility has the right to recover any costs associated with "siting, design, licensing, or construction of the plant..." The only mechanism for permitting any disallowance of costs would be based on the PSC finding of imprudence in the utility's "siting, licensing and construction" of the plant. According to the PSC, it currently uses a standard to determine prudence based on a "preponderance of the evidence." This bill creates a more difficult "clear and convincing" evidence standard that must be applied by the in determining what expenditures could be deemed imprudent. Section 24(5) also states that imprudence may not be found for any costs outside the utility's control and then proceeds to enumerate a list of such events "including, but not limited to" delays in getting necessary permits, litigation delays, construction and equipment costs, or changes in laws or regulations.

Under traditional ratemaking practice, expenditures for any pre-operational costs to build power plants would accrue in a regulatory account and when the plant becomes operational, all costs in this account would become part of the total plant cost that could be placed in rate. PSC practice does allow public utilities to request early cash flows to occur for power plant construction costs upon a showing that the utility would suffer financial hardship without such early recovery of costs.

Further, the PSC points out that while it is unlikely that any municipal or cooperative utility would initiate a need determination for a nuclear unit, the provisions of this act would appear to apply to them. As a matter of administrative review, all of the provisions of this bill could appropriately apply to municipal or cooperative utilities, except for the cost recovery provisions contained in 24(5). The PSC does not have any authority over how and what time period municipal or cooperative utilities finance power plants and recovery pre and post construction costs.

Section 25. This act shall take effect upon becoming law.

#### C. SECTION DIRECTORY:

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact is yet to be determined.

2. Expenditures:

The fiscal impact is yet to be determined.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact is yet to be determined.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is granted to the DEP to implement the provisions of the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the DEP, the act would apply to any electric power generation that is fueled by a nuclear process. Whereas the PPSA only applies to steam turbine electric power generation (including nuclear fueled). However, all nuclear fueled electric power generation is by steam turbine.

The deletion of the reference to nuclear fuels in the PPSA does not relieve a generation facility producing steam turbine generated electric power from the need for certification under the PPSA. This means two certifications would be required: one for the steam turbine generation (PPSA), and one for the use of a nuclear fuel (EDEA). Two certifications require two fees. Since the two applications would be virtually identical, all other processes could carry forward as one, however, all official documents would have to be produced and processed separately for each act.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES